



COUNTY OF LOS ANGELES  
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June 19, 2009

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**ADOPTED**

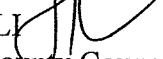
BOARD OF SUPERVISORS  
COUNTY OF LOS ANGELES

TO: SACHI A. HAMAI  
Executive Officer  
Board of Supervisors

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JUNE 30, 2009

Attention: Agenda Preparation

FROM: JOHN F. KRATTL   
Senior Assistant County Counsel

  
SACHI A. HAMAI  
EXECUTIVE OFFICER

RE: **ENKI Health & Research Systems v. County of Los Angeles**  
**Los Angeles Superior Court Case No. BC 341 409**  
**DMH IT Litigation Settlement (18 Plaintiffs, 25 Consolidated Cases)**

Attached is the Agenda entry for the Los Angeles County Claims Board's recommendation regarding the above-referenced matter. Also attached are the Case Summary and the Summary Corrective Action Plan to be made available to the public.

It is requested that this recommendation, the Case Summary and the Summary Corrective Action Plan be placed on the Board of Supervisors' agenda.

JFK:rfm

Attachments

## Board Agenda

### MISCELLANEOUS COMMUNICATIONS

Los Angeles County Claims Board's recommendation: Authorize settlement of the matter entitled ENKI Health & Research Systems v. County of Los Angeles Los Angeles Superior Court Case No. BC 341 409 - DMH IT Litigation Settlement (18 Plaintiffs, 25 Consolidated Cases), in the amount of \$10,500,000, plus ancillary payments of \$2,122,000, and instruct the Auditor-Controller to draw a warrant to implement this settlement from the Department of Mental Health's budget.

These lawsuits concern allegations that the Department of Mental Health breached its contracts with 18 mental health service providers.

## CASE SUMMARY

### INFORMATION ON PROPOSED SETTLEMENT OF LITIGATION

CASE NAME	ENKI Health and Research Systems Inc. v. County of Los Angeles (Lead Case) 25 Consolidated Cases, 18 Plaintiff Providers of Mental Health Services
CASE NUMBER	BC341409, plus other consolidated cases
COURT	Los Angeles Superior Court - Central District
DATE FILED	10-13-05, et seq.
COUNTY DEPARTMENT	Department of Mental Health
PROPOSED SETTLEMENT AMOUNT	\$ "Total Settlement Amount" (all plaintiffs) of \$10,500,000, County Cash Payment of \$5,808,417, forgiveness of Cash Flow Advances, acceptance of \$3 million payment to County by State of California, plus ancillary payments of \$2,122,000 to two plaintiffs on collateral claims
ATTORNEY FOR PLAINTIFF	Kathleen Drummy/Davis Wright Tremaine
COUNTY COUNSEL ATTORNEY	Richard K. Mason
NATURE OF CASE	This is a settlement of the protracted litigation, 25 consolidated cases brought by 18 providers of mental health services alleging approximately \$25 million in damages for unreimbursed services, involving the Department of Mental Health

("DMH") and the State of California with respect to DMH's information technology system, which was modified to comply with the requirements of the federal HIPAA regulations. In 2006 and 2007 the Board of Supervisors approved partial settlements for three of the plaintiff providers and authorized continued mediation efforts for the entire matter. This mediated settlement finally resolves all issues in these cases. Plaintiffs allege that DMH breached its contractual obligations to them by not timely or accurately processing their claims for reimbursement to the State, resulting in denied claims. The State is also a defendant. The County asserted a cross-claim against the State for, among other things, indemnity or contribution. The County further asserted that responsibility is also shared by the plaintiff providers and the designer of the system changes, Sierra Systems. The settlement is the result of lengthy mediation sessions, a comprehensive "Collaborative Claiming Process" agreed to during mediation, sessions before a Superior Court settlement judge, and protracted settlement discussions. The plaintiffs, the State, and the County have all agreed to resolve the matter on the terms set forth in the settlement agreement.

PAID ATTORNEY FEES, TO DATE	\$	\$859,824.20
PAID COSTS, TO DATE	\$	\$49,122.41



## Summary Corrective Action Plan

The intent of this form is to assist departments in writing a corrective action plan summary for attachment to the settlement documents developed for the Board of Supervisors and/or the County of Los Angeles Claims Board. The summary should be a specific overview of the claims/lawsuits' identified root causes and corrective actions (status, time frame, and responsible party). This summary does not replace the Corrective Action Plan form. If there is a question related to confidentiality, please consult County Counsel.

Date of incident/event:	October 2005 (First lawsuit filed)
Briefly provide a description of the incident/event:	Contract providers of mental health services alleged in 25 lawsuits against the County and the State of California that the transition to HIPAA-compliant claiming and the design, implementation, and use of the Integrated System (IS) by DMH resulted in loss of revenue because of flawed implementation of the HIPAA Transactions and Code Sets Rules, flaws in the design and implementation of the IS, and deficiencies in DMH's operation and use of the IS.

1. Briefly describe the root cause of the claim/lawsuit:

The root causes of the problems which led to delays in reimbursement claims and consequent denials of such claims leading to the subject litigation are complex, but include the following:

1. Errors and omissions resulting from "fast track" procurement and implementation process in order to comply with federal mandates and timelines;
2. Design errors or omissions and other related inadequate performance by Sierra Systems;
3. Incapacity of State system to receive and process claims and inadequate performance by State with respect to required systems interfaces; and
4. Provider errors and omissions and untimely and inaccurate data entry.

2. Briefly describe recommended corrective actions:

(Include each corrective action, due date, responsible party, and any disciplinary actions if appropriate)

1. Correct outstanding performance and operational problems with the IS (Change Request 48)

Responsible Party: R. Greenless, Chief Information Officer, (CIO) Chief Information Office Bureau,

(CIOB.) Completion Date: April 2006.

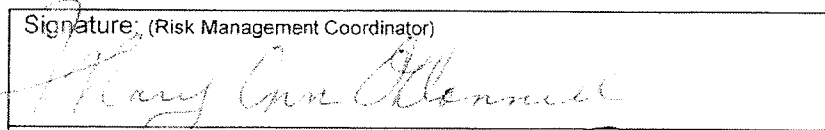
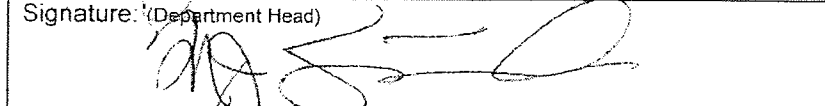
2. Create a Revenue Management Division (RMD) within DMH to provide effective monitoring and oversight of DMH claims processing activities. Responsible Party: Lyn Wallensak, Chief Administrative Deputy. Completion Date: May 2006.
3. Introduce the Cognos Business Intelligence (BI) to DMH and pair it with the DMH Data Warehouse. Responsible Party: John Ortega, Chief, Data and Integration Services, CIOB Completion Date: December, 2009
4. Develop and staff a Project Management Office (PMO) within CIOB. Responsible Party: Sharon Carlson, Associate, CIOB Completion Date: August, 2009.
5. Develop and Maintain a DMH Project Management Methodology based on Industry Best Practices. Responsible Party: Sharon Carlson, Associate, CIOB Completion Date: February, 2005.
6. Acquire an Integrated Behavioral Health Information System (IBHIS) to replace the IS and provide an electronic health record (EHR) system for DMH. Responsible Party: Robert Greenless, CIO, CIOB Completion Date: Initial Production Use - September, 2013.

3. State if the corrective actions are applicable to only your department or other County departments: (If unsure, please contact the Chief Executive Office Risk Management Branch for assistance)

☐ Potentially has County-wide implications.

☐ Potentially has implications to other departments (i.e., all human services, all safety departments, or one or more other departments).

X Does not appear to have County-wide or other department implications.

Signature: (Risk Management Coordinator) 	Date: 6-8-09
Signature: (Department Head) 	Date: 6-8-09